

ALABAMA DEPARTMENT OF REVENUE Instructions for Form 40X

Amended Alabama Individual Income Tax Return or Application For Refund

Purpose of Form 40X

Use Form 40X to correct your income tax return Form 40, 40A, E40, 40NR, or 41 for tax years prior to tax year 2008. Also use Form 40X to claim a refund of individual income tax paid through mistake or error, or a refund due to a net operating loss carryback or carryforward. If you are changing your State return, you may also have to change your Federal return.

The interest on additional tax due should be computed at the same rates as prescribed by the Internal Revenue Service. Interest calculator can be found on our web site www.revenue.alabama.gov.

If correction of your return results in a refund, we will compute the interest using the Federal rates and include it with your refund. If you owe additional tax due to the corrections, you should include interest computed using the Federal rates with payment of the tax due as shown on your corrected return.

Information on Income, Deductions, Exemptions, Etc.

If you have questions, such as what income is taxable or what expenses are deductible, you should refer to the instructions for the return you are amending.

Death of Taxpayer

If the taxpayer died after the original return was filed and you are requesting a refund, the amended return should be signed by the executor or administrator of the estate. If no one has been appointed, the return should be signed by the person requesting the refund, and a statement should be attached giving the relationship to the taxpayer and reason for being entitled to the refund. PLEASE NOTE: The Department cannot issue refunds for a deceased taxpayer in the name of a third party.

If a refund is due, the refund check will be issued in the name of the deceased taxpayer. The refund check should be endorsed for the deceased taxpayer and also signed by the executor or administrator of the estate or by the person requesting the refund. An example of how the check should be endorsed is as follows:

John Doe, deceased
by Mary Doe, wife of deceased payee

When To File

File Form 40X after you file your original return. Generally, Form 40X must be filed within three (3) years from the date the original return was filed or two years from the date of payment of the tax, whichever is later, or if no return was timely filed two years from the date of payment of the tax. Taxes paid through withholding or estimated payment shall be deemed paid on the original due date of the return.

Net Operating Loss

You must complete Form NOL-85 for the loss year to determine if you have a net operating loss and the amount of the loss that may be carried back or brought forward. If the loss is carried back, then Form NOL-85 must be attached to Form 40X of the earliest year's return to which the loss is carried.

Prior to January 1, 1998

Prior to January 1, 1998, if the claim for refund results from a net

operating loss (NOL), the carry back must be filed within three years from the due date of the loss year return (including extensions thereof). If an election is made to carry the loss forward without carrying it back, a copy of Form NOL-85 must be attached to the loss year return and the election must be timely (due date of the loss year return). Form NOL-85 must be completed whether carrying the net operating loss back three years or carrying your loss forward.

After December 31, 1997

For tax years beginning after December 31, 1997, if the claim for refund results from a net operating loss (NOL), the carry back must be filed within three years from the due date of the loss year return (including extensions thereof). An election may be made to forfeit the carry back provision by completing Part III of Form NOL-85 and attaching it to the loss year return or by applying the net operating loss to the subsequent year's timely filed return. A net operating loss can be carried back two years or carried forward up to 15 years.

In the event Form 40X is used to carry a net operating loss back to a year that is closed due to the Statute of Limitations, this form is not an Amended Return but an Application for Refund.

For further information, please see the instructions for Forms NOL-85 and NOL-85A.

Limitations For Amending Your Return

Alabama law has been amended from time to time; therefore, certain items may or may not be changed for the year you are amending. You should refer to the instructions for the year you are amending for adjustments that are allowable. The main items which may or may not be changed are:

- (a) **STANDARD OR ITEMIZED DEDUCTION.** If you originally filed Form 40 or Form 40NR, you may change from standard to itemized deduction or from itemized to standard deduction if your amended return is received within the statute of limitations as previously explained under When to File.
- (b) **JOINT OR SEPARATE RETURN.** You cannot change from a joint to a separate return after the due date of the return for any year.
- (c) **PERSONAL EXEMPTION.** Each spouse must claim his/her own personal exemption if an election is made to file separate Alabama returns.

Specific Instructions

ENTER IN THE SPACE PROVIDED THE CALENDAR YEAR OR FISCAL YEAR OF THE RETURN YOU ARE AMENDING.

Column A. Enter the amounts from your return as originally filed or as later amended. If your return was audited, enter the amounts that were determined as a result of the examination.

Column B. Enter the increases or decreases you are making, placing all decreases in brackets. Explain each change on page 2, and attach any related schedule or form.

Column C. Add the increase in column B to the amount in column A, or subtract the column B decrease from column A. Show the result in column C.

If your amended return changes only tax credits, skip lines 1-11 and start with line 12. If it changes only payments, skip lines 1-12 and start with line 13.

Line 1. Total Income. To figure this amount, add income from all sources such as wages, interest, dividends, and net profit from business.

If you are correcting wages or other employee compensation, attach the state copy of Form W-2/W-2C that you received after you filed your original return.

Line 2. Adjustments to Income. Enter on this line all adjustments to income such as business expense, moving expense, penalty for early withdrawal of savings, etc. Refer to the instructions for the year you are amending for the adjustments that are allowable since Alabama law has been amended several times and certain adjustments may apply only to certain years.

Line 4. Standard or Itemized Deductions (Forms 40 or 40NR only). Indicate if you are claiming the Standard Deduction or Itemized Deductions. You may change from standard to itemized or from itemized to standard deduction. (See Limitations For Amending Your Return on page 1 of these instructions.) Also, refer to the instructions for the year you are amending since the items allowed as itemized deductions are different for certain years.

Line 6. Federal Income Tax Deduction. Enter on this line the federal income tax you claimed as a deduction in your return. If you are increasing the amount originally claimed, explain on page 2, and attach a copy of your canceled check(s), money order(s), or other records to substantiate the additional amount.

Line 8. Personal Exemption, Dependent Exemption, or Fiduciary Exemption. Enter the total amount you claimed on your original return for personal exemption and dependents. See Limitations For Amending Your Return since you cannot change the personal exemption under certain conditions. If you are claiming additional dependents, give the name, age, and relationship on page 2.

Line 9. Taxable Income. Subtract line 8 from line 7, and enter the result on this line.

If a Net Operating Loss is available to be applied to taxable income, enter the amount from line 9, Form 40X, on line 3, Form NOL-85A, and compute your tax per the instructions for Form NOL-85A.

Line 10a. Income Tax. Enter your Alabama income tax before subtracting any credits. If you are computing your tax from Form NOL, write "NOL Form" on this line. Include any previous voluntary contributions in the total.

Line 10b. Consumer Use Tax. Enter Consumer Use Tax due the state of Alabama.

Worksheets on how to compute Consumer Use Tax are available in the instruction booklets for forms 40, 40A and 40NR.

Line 12. Credits from Schedule CR and/or OC. Enter the total credit claimed for taxes paid to other states, Capital Credits, and/or Enterprise Zone Credits. See Schedules CR, OC and instructions for further information on these credits.

If you are changing the amount originally claimed on your return, show the correct computation on page 2, or attach a corrected Schedule CR, OC.

Line 13. Net Tax Liability. Subtract line 12 from line 11, and enter the result on this line. The amounts entered on this line cannot be less than zero.

Line 14. Alabama Income Tax Withheld. If you change these amounts, attach the state copy of all additional or corrected W-2 Forms that you received since you filed your original return.

Line 16. Amount Paid With Return. Enter the amount you paid on the "Balance Due" reported on your original return. Do not include payments of interest or penalties.

Line 17. Other Payments. Enter other payments not included on lines 14, 15, or 16. Amounts entered on this line include amounts paid with an application for extension, additional tax due as a result of office or field adjustments, and any other tax paid after your return was filed.

Line 19. Overpayment as Shown on Original Return. The overpayment shown on your original return must be considered in preparing Form 40X, since any refund you may not have received will be refunded separately from any additional refund due on Form 40X.

The amount you should list on line 19 is the overpayment on your original return before any amount(s) you elected to apply to your next year's estimated tax and/or elected to donate to any of the donation check-off funds. If your refund was increased or decreased as a result of an examination of your original return, you should show the corrected amount on Form 40X. Do not include any interest you received on any refund.

Note: You cannot decrease the amount(s) you elected to apply to your next year's estimated tax or donated to any of the donation check-off funds, since these elections are irrevocable and cannot be refunded or applied to pay any additional tax due on your amended return.

Line 21. Balance Due. If the amount on line 13, column C is more than line 20, enter the difference on this line.

If your amended return is filed after the due date of the return, you should include interest from the due date to date of payment. See the interest rates in the first part of these instructions. If you are subject to any penalties such as delinquent penalties, or estimate penalties, they should be included with your payment. The tax, interest, and penalties should be entered in the spaces provided on line 21.

Line 22. Refund to be Received. If the amount on line 13, column C, is less than the amount on line 20, enter the difference on this line. This amount will be refunded separately from the amount claimed on your original return. If you are due interest on this amount, the Department will include the interest with your refund.

Explanations For Changes To Income, Exemptions, Deductions, and Credits

Explain on page 2 any changes made in column B on page 1. Enter the line reference from page 1 by each explanation. If necessary, attach supporting schedules and/or forms showing the corrected amounts.

Where To File

Mail your amended return to:

**Alabama Department of Revenue
Individual and Corporate Tax Division
P.O. Box 327464
Montgomery, AL 36132-7464**

Mail **ONLY** your Amended Return to the above address. Current returns should be mailed separately to a different address, since these returns are processed separately.